

Exhibit D

Sworn Statement of Jason Horton with Exhibits

In The Matter Of:

*In Re: Investigation of Ideal Horizon Benefits,
d/b/a Solar Titan USA, Inc.*

*Sworn Statement of Jason Horton
August 3, 2022*

Christina A. Meza, LCR, RPR, CCR

Original File 2022-08-03 Jason Horton.txt
Min-U-Script® with Word Index

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IN RE:)
)
INVESTIGATION OF IDEAL HORIZON)
BENEFITS, d/b/a SOLAR TITAN)
USA, INC.)

SWORN STATEMENT OF

JASON HORTON

Wednesday, August 3, 2022

CHRISTINA A. MEZA, LCR, RPR, CCR
LICENSED COURT REPORTER
P.O. BOX 432
NOLENSVILLE, TN 37135
615-202-7303
christina.a.meza@gmail.com

Christina A. Meza, LCR, RPR, CCR 615.202.7303

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APPEARANCES:

For the State of Tennessee Attorney General's Office:

Mr. Samuel D, Keen
Ms. Alicia Daniels-Hill
Consumer Protection Division
Office of the Tennessee Attorney General
P.O. Box 20207
Nashville, TN 37202
615-837-5155
samuel.keen@ag.tn.gov
alicia.daniels-hill@ag.tn.gov

Reported By:
Christina A. Meza, LCR, RPR, CCR

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The sworn statement of Jason Horton was taken by counsel for the Office of the Tennessee Attorney General, UBS Building, 19th Floor, 315 Deaderick Street, Nashville, Tennessee, on Wednesday, August 3, 2022, beginning at 10:03 A.M., for all purposes allowed under the Tennessee Rules of Civil Procedure.

It is agreed that Christina A. Meza, Licensed Court Reporter, Registered Professional Reporter, Certified Court Reporter, and Notary Public for the State of Tennessee at Large, may swear the witness, take the sworn statement, and afterwards reduce same to typewritten form. The reading and signing of the completed sworn statement by the witness was not discussed.

All formalities as to caption, certificate, transmission, filing, etc., are waived. All objections except as to the form of the questions are reserved to on or before the hearing.

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EXHIBITS

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2	A document titled "Anyway Money Pitch"	31
3	A document titled "Non-Disclosure, Non-Competition, and Non-Solicitation Agreement"	43
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1 MR. KEEN: We're on the record. What
2 that means -- whenever I say we're on the record it
3 means that she's recording what we're saying and she's
4 going to transcribe it for us later on just so that we
5 have a record of it so we can refer back to if we need
6 to.

7 So, as you know, my name is Sam Keen.
8 I'm an assistant attorney general with the Tennessee
9 Attorney General's Office in our Consumer Protection
10 Division.

11 This is Alicia Daniels-Hill. She is a
12 legal assistant with our office, and we won't go into
13 the complicated and frustrating details. She is a
14 licensed attorney in the state of Ohio. She is -- she
15 moved to Tennessee about a year ago, and so she's
16 practicing pending admission. She has to go through a
17 whole process where they waive her in to practice.

18 And we are here today to conduct
19 what's called a sworn statement. I believe we've
20 talked about that a little bit on the phone.

21 THE WITNESS: We have.

22 MR. KEEN: We're going to swear you in
23 so that all the testimony you give today is under oath.

24 ///

25 ///

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1 JASON HORTON,
2 called as a witness, having been duly sworn, was
3 examined and testified as follows:
4 EXAMINATION
5 BY MR. KEEN:
6 Q. Would you mind stating your full name
7 for the record.
8 A. Jason D. Horton from Knoxville,
9 Tennessee.
10 Q. How do you spell that?
11 A. Jason, J-A-S-O-N. Horton is
12 H-O-R-T-O-N.
13 Q. Is it okay if I call you Jason?
14 A. Yes.
15 Q. And you understand that you're under
16 oath?
17 A. Yes, I do.
18 Q. You understand what that means?
19 A. Uh-huh.
20 Q. And you see Ms. Meza is here today.
21 She's our court reporter, and she's going to capture
22 all of our responses -- all of your responses to my
23 questions. So in order to help her out, I just ask
24 that we not give nonverbal responses. So even if
25 your response is just a simple yes or a no, actually

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1 say the word yes or no instead of shaking your head
2 yes or no.

3 Let's also speak loudly and clearly today
4 so that Ms. Meza can accurately record what we're
5 saying. And let's try to avoid talking over each
6 other. So I will try my best to wait until you're done
7 talking before I ask the next question or ask a
8 follow-up question. And, likewise, if you will try
9 your best to wait to give your answer until I'm done
10 asking the question, that would be very helpful.

11 Is there any reason you would have
12 difficulty speaking loudly and clearly today?

13 A. No. I thought I was being loud and
14 clear.

15 Q. You are. For sure. I just want to make
16 sure.

17 A. Okay.

18 Q. This is all sort of the routine
19 questions that we ask before we start getting into
20 the details of why you're here today. We will
21 probably need to take some breaks today. Obviously
22 we're going to need to take a break so you can renew
23 your parking. So if you need to take a break, if
24 you need to stop, just let me know.

25 A. Okay.

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1 Q. We'll probably take a break for lunch
2 around noon which is when your parking expires.

3 A. Let's get going.

4 Q. All right. Good deal. If there's
5 anything that I ask that you don't understand, let
6 me know and I will try my best to clarify it. I
7 understand you brought some documents.

8 A. I did. I brought in some case files of
9 customers that you requested. There are personal
10 information on there, meaning their social security
11 numbers and stuff like that, so it needs to be taken
12 with great care. They are a lot of my past
13 customers, some local, some in Kentucky, Alabama,
14 and Virginia. You will see an assortment in there
15 from the four different states I have worked in.

16 I also have some more stuff over here I
17 will share with you too as we go along. Just people of
18 interest it would pay to make a phone call to to gather
19 some other information you might need.

20 Q. If there's anything that you have that's
21 responsive to a question that I have or that would
22 help me better understand the answer that you're
23 giving, then we can stop and maybe you can pull that
24 document out and we can talk about it.

25 A. Now, everything that I've sent you by

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1 email -- is it on record now?

2 Q. No.

3 A. So I'll need to reprint all that out?

4 Q. No, not necessarily. If there's
5 something that you had sent me previously that is
6 responsive to what I'm asking, then we should talk
7 about that. And if it's something that you don't
8 have, then we can try to get a copy of that so that
9 we can make it part of the record.

10 A. Okay. There were some things that you
11 asked for that I do not have. That is the text
12 messages between myself, Craig Kelley, and Sarah
13 Kirkland. There are so many texts that we're
14 talking about going back to 2019.

15 Q. And all that stuff is on your phone,
16 though -- right? -- still?

17 A. It is.

18 Q. You just weren't able to print it out?

19 A. You're talking about several hundred
20 copies.

21 Q. Several hundred. All right. I gotcha.
22 This is just a question that we ask everybody. Is
23 there any reason today why you wouldn't be able to
24 testify truthfully or to the best of your
25 recollection and knowledge?

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1 A. No, there's not.

2 Q. You're not on any medication or anything
3 that would affect your ability to testify today?

4 A. No.

5 Q. All right. Good. Are you familiar with
6 testifying? Have you ever given testimony?

7 A. No. First time.

8 Q. Okay. Well, we'll try to be as -- you
9 know, this is obviously sort of a formal setting
10 where I ask questions and you give responses, but I
11 also want this to be conversational. So if you have
12 something to say that maybe my question isn't as
13 pointed as it should be or I'm just not
14 understanding what to ask, feel free to just chime
15 in and say, "Hey, Sam, this is something I think you
16 should know about as well."

17 This is another question we ask everybody.
18 It's not meant to embarrass you or anything like that,
19 but it's something we need to know. Have you ever been
20 arrested?

21 A. No.

22 Q. Never charged with a crime or anything?

23 A. No.

24 Q. Have you ever been involved in a lawsuit
25 of any kind?

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1 A. No.

2 Q. Where were you born?

3 A. Sneedville, Tennessee.

4 Q. What's your date of birth?

5 A. 3/14/77.

6 Q. Where do you live currently?

7 A. Knoxville, Tennessee, which is actually
8 Corryton, Tennessee. 6509 Mission Springs,
9 Corryton, Tennessee, 37721.

10 Q. That's in Knox County?

11 A. That is correct, Knox County.

12 Q. Tell me a little bit about your
13 background. Did you go -- have you lived in
14 Tennessee your whole life?

15 A. I have. The majority of my life has
16 been traveling through sales for different
17 companies. I have ran and/or led different
18 companies from all types of sales. What was the
19 question again?

20 Q. Just tell me a little bit about your
21 background.

22 A. My background has basically been in
23 sales all my life working for hardware companies or
24 doing vacation sales or real estate.

25 Q. So would you say since the age of 18,

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1 you've been in sales?

2 A. Since the age of 23, I've been in sales.

3 Q. Did you go to high school in Tennessee?

4 A. I did.

5 Q. Was that in Knox County as well?

6 A. No. That was in Sneedville, Tennessee.

7 Q. Have you done any college classes?

8 A. Yes, I have.

9 Q. Okay. Can you tell me a little bit
10 about that.

11 A. I have done John A. Gupton out here in
12 Nashville, funeral directing and embalming. I also
13 graduated from Tennessee Tech in Morristown in
14 machine tool technology, and then I have a bunch of
15 little, like, non-credited things, stuff like that.

16 Q. What did you graduate in?

17 A. Machinist, a pre-engineer degree.

18 Q. What year was that?

19 A. That was in probably I think '98.

20 Q. And you say you have some other classes
21 that you've taken, not necessarily college classes?

22 A. Yes. Just different ones in sales and
23 different courses and stuff like that.

24 Q. Have those resulted in any special
25 certifications?

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1 A. Yes, but it's hard for me to recall
2 those.

3 Q. I understand.

4 A. They have been many years ago.

5 Q. I understand completely. But
6 certifications relating to selling?

7 A. Yes.

8 Q. Okay. You say you started selling when
9 you were 23 years old. What was the first company
10 that you worked for?

11 A. House Hasson Hardware Company. That's
12 in Knoxville, Tennessee. They sell hardware to,
13 like, your mom and pop -- your mom and pop hardware
14 stores.

15 Q. So it's more like wholesale, not retail?

16 A. Correct.

17 Q. How long did you work there for?

18 A. Six-plus years.

19 Q. And then did you go to a new job after
20 that selling?

21 A. I did.

22 Q. Okay.

23 A. I'm having a hard time remembering them
24 now.

25 Q. That's all right.

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1 A. So I have what's called a TBI, traumatic
2 brain injury. I had a fall back in 2018. So some
3 stuff I cannot recall as quickly as normal.

4 Q. I understand.

5 A. But that's the reason some of that I
6 cannot recall. But I remember I left House Hasson
7 Hardware Company and I went to another company. I
8 cannot think of the other company I went to.

9 But I've been in some sort of sales. After
10 the accident in 2018, I went into working for what's
11 called Exploria Resorts. That is a vacation
12 time-share. Then I left there and started with
13 Solartime USA.

14 Q. Gotcha. So in 2018 you experienced the
15 injury. Do you mind sharing a little bit about how
16 the injury happened?

17 A. I was working for Coca-Cola in sales,
18 and I walked out on a dock and slipped on black ice.
19 I fell about 10 feet and hit my head. That
20 injured -- I have a TBI and I have a shoulder over
21 here that's -- it's been repaired, but it's still
22 fragile.

23 Q. Do you remember when that happened?

24 A. That happened in January of 2017.

25 Q. You said you had that shoulder surgery?

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1 A. No. They done repair to it through
2 physical therapy. I had to do that and some other

3 things, had to do speech therapy, stuff like that.

4 Q. And that was -- I assume that was all
5 covered under worker's compensation?

6 A. Yes, it was.

7 Q. And you had to take some time off of
8 work because of that?

9 A. Yes. I probably took close to a year or
10 year and a half off.

11 Q. And while you were off, the company --
12 did they do the two-thirds your average weekly wage
13 where they pay you --

14 A. Uh-huh. (Witness moves head up and
15 down.)

16 Q. Then -- so once you recovered from your
17 injury and you were ready to go back to work, you
18 decided not to go back to work at Coca-Cola?

19 A. I did.

20 Q. Was there any reason why you decided not
21 to go back to work with Coca-Cola?

22 A. Money.

23 Q. That's usually a good reason to go find
24 another job. So you go and work for the time-share
25 company?

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- 1 A. Yes, I did.
- 2 Q. What was the name of that company again?
- 3 A. Exploria Resorts.
- 4 Q. Did they sell time-shares in any
- 5 particular location or for any particular brand?
- 6 A. They sold in their locations only. They
- 7 had about 12 locations at the time they sold in.
- 8 Q. Then that was the job you did just
- 9 before joining Solar Titan?
- 10 A. That's where I actually met Craig Kelley
- 11 at.
- 12 Q. So Craig was working for Exploria
- 13 Resorts as well?
- 14 A. Yes. Craig was what's called a TO. A
- 15 TO is called a take-over manager. He was the one --
- 16 we set the sale up and he comes in and closes the
- 17 deal. So that's where my relationship started with
- 18 Mr. Craig Kelley.
- 19 Q. Was he like a supervisor?
- 20 A. No, he was not. He was called a
- 21 take-over manager. He was the closer is what he
- 22 was -- in sales, he would be the closer. He would
- 23 come in and take over from where I left and offer
- 24 the deals that I could not offer.
- 25 Q. I understand. So in 2018 you've

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1 recovered. You're back at work. You're working for
2 Exploria Resorts. You meet Craig Kelley. Tell me
3 how you end up going from Exploria --

4 MS. DANIELS-HILL: Before we do that,
5 I just have a follow-up question. Does anything
6 related to your TBI affect your ability to accurately
7 recall information you're giving us or just that
8 sometimes you might not remember right off the top of
9 your head?

10 THE WITNESS: I sometimes might not
11 remember. It might take me a second for it to come up,
12 but really anything prior to that I'm kind of just -- I
13 can't remember. I can remember, but it's just like as
14 we age you -- it's hard to recall some things but
15 something can bring it up. But anything moving
16 forward, I'm pretty -- I can tell you this way. The
17 day that I found out I had the TBI, I called my wife --
18 current wife by my ex-wife's name. So that's when we
19 knew that something was wrong.

20 But, no, everything is -- I've been
21 cleared. The doctor told me I would probably recover
22 about 80 percent. I've actually excelled to about
23 90 -- 90 percent. Just sometimes it's hard to recall
24 stuff sometimes. I'll get like a stop on it.

25 ///

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1 BY MR. KEEN:

2 Q. If there's anything as we're going along
3 that you remember that might be responsive to what
4 we're talking about, just feel free to say, Oh, hey,
5 Sam, I just remembered this.

6 Okay. So let's talk about you going from
7 Exploria to Solar Titan. Just tell me a little bit
8 about how that happened.

9 A. I was still with Exploria Resorts, and
10 Exploria Resorts came in and shut down the sale
11 site. I left there and went on unemployment for
12 about two months, and then -- Craig and I stayed in
13 communications the whole time. He said, "We have
14 something that's going on that we're fixing to
15 build. Do you want to be a part of it?" I said,
16 "Yes." And he offered -- him and Sarah Kirkland
17 offered me a sales position, and I was the first
18 employee. I started that, and then that's how the
19 relationship started with them.

20 Later on I met his partner, which is
21 Michael Atnip, and we developed a -- just a -- we
22 became like a family, you know, of great friends. And,
23 you know, that's how that all came together.

24 Q. So you found out about the Solar Titan
25 position through Craig Kelley?

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1 A. Yes, the CEO.

2 Q. Craig Kelley is the CEO of Solar Titan?

3 A. Yes.

4 Q. So did you have to apply?

5 A. No, never did.

6 Q. You didn't have to do an interview or
7 anything?

8 A. No.

9 Q. You said that Craig told you that he was
10 building something and that he asked if you wanted
11 to be a part of it. Did he explain to you about the
12 company like before you signed on to join?

13 A. He said that we will be selling solar,
14 and that's all I needed to know at the time.

15 Q. And did you know when they hired you --
16 what position did they say that they were hiring you
17 to do?

18 A. I was hired as sales to -- as a sales
19 consultant to go out and just to sell.

20 Q. Sales consultant. What did they tell
21 you about the type of work that you would be doing?
22 Was it just doing sales or would there be any
23 management responsibilities or anything along those
24 lines?

25 A. He offered me the director of sales. I

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1 told him I wanted no part of that. I didn't want to
2 manage kids.

3 Here's you another -- here's you a
4 screenshot of how the executive order down, coming
5 from. You also have an email of mine sent to you
6 dated -- it was dated 7/23 of the department heads, how
7 they all are set, and that's something that you can put
8 with your other file that puts him at the CEO level.

9 Q. Let's just -- for the record, let's sort
10 of explain what this is. What you're showing me
11 appears to be a printout of a text message
12 conversation that you had with Craig Kelley?

13 A. That is a printout conversation that
14 Craig Kelley had with Shawna Helton and the text
15 message shows who is the CEO, the CFO, and the COO
16 of the company.

17 Q. Okay. How did you get a copy of a text
18 message between Craig Kelley and Shawna Helton?

19 A. Shawna sent that by text message.

20 Q. To you?

21 A. Correct.

22 Q. Why did she send it to you?

23 A. Because I asked her if she had anything
24 that could put -- of the department heads.

25 Q. That just sort of showed the

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1 organizational structure?

2 A. Yes, how it actually is set up.

3 Q. I understand. And in this text message
4 it says that the CEO is Craig Kelley?

5 A. Correct.

6 Q. And the CFO, meaning chief financial
7 officer, is Michael Atnip and the chief operational
8 officer is Sarah Kirkland?

9 A. That is correct.

10 MR. KEEN: We can mark it as an
11 exhibit.

12 MS. DANIELS-HILL: Are these your only
13 copies of these? Are these the originals?

14 THE WITNESS: These are yours. I do
15 not need copies.

16 MR. KEEN: So, for the record, we're
17 going to make this document -- we're going to mark it
18 as Exhibit 1.

19 (Marked Exhibit 1.)

20 MR. KEEN: Are there any other
21 questions that we need to ask about this right now?

22 MS. DANIELS-HILL: When did she send
23 you this screenshot?

24 THE WITNESS: That was sent this week.
25 That was sent yesterday at 1:20 P.M.

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1 MS. DANIELS-HILL: What day?

2 THE WITNESS: August the 2nd.

3 MS. DANIELS-HILL: Did she clarify
4 whether or not this was a text that she was having
5 directly with Craig Kelley then?

6 THE WITNESS: It is. It's directly
7 with him.

8 MS. DANIELS-HILL: Was this from her
9 personal cell phone?

10 THE WITNESS: It is.

11 BY MR. KEEN:

12 Q. And in this she says -- she asks, "Is
13 payroll a week behind?" But this was sent --

14 A. February the 26th of 2020.

15 Q. Over two years?

16 A. Yes.

17 Q. What is this below that? She says, "I'm
18 going to send you my resignation letter to proof."

19 A. She sent that to her previous employer.
20 She actually sold solar too. How this all comes
21 involved in together, Craig, Shawna, and I sold
22 time-share at the same company. That's how we all
23 three knew each other. Prior to that, Shawna and
24 Craig sold time-share in Florida together. That's
25 the connection.

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1 And where I come into play with them too is
2 the one in Gatlinburg, Tennessee. That's where I
3 actually met them. Like I say, I reached out to Shawna
4 to see if she had anything that she wanted to provide,
5 and that was what she actually sent. A lot of the
6 things that, like I told you on the telephone, is a lot
7 of people comes and talks to me. And the reasons I'm
8 doing that is because I was the first one at the
9 company. I knew everything -- I knew what was -- I
10 found out what was going on. People was telling me,
11 "Jason, this is going on. This is going on." I said,
12 "There's no way this is going on."

13 And people were just telling me stuff, just
14 like Shawna. Shawna came to me a couple months back.
15 She said, "Jason, I'm not being paid." I said, "I'm
16 not either." And she said, "What are you going to do?"
17 I said, "Well, I'm fixing to resign. I feel like a --
18 I feel like a carrot is being hung in front of me."

19 You know, when your employer goes and buys
20 a \$8.2 million home and invites you out for a barbecue
21 next week and they can't pay you, that's kind of an
22 insult to you. So just with that being said -- I
23 apologize. I know we kind of got off record there.

24 Q. No. That's fine. That's perfectly
25 fine.

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1 A. Please feel free to move forward.

2 Q. So Craig also asked Shawna to join Solar

3 Titan?

4 A. Correct.

5 Q. And so Shawna would have to resign from

6 Exploria?

7 A. She resigned from another company that

8 she was selling solar for, and I do not know what

9 that company's name was. But she left there and

10 went -- she became what's called the -- I think she

11 was the director of sales at Solar Titan, and then

12 later she became the vice president of sales at

13 Solar Titan. See, I never did answer to Shawna. I

14 answered directly to Craig Kelley.

15 Q. Craig's always been your boss?

16 A. Craig Kelley has been my direct contact.

17 All my other staff -- I never did answer to no one.

18 I pretty much had the freedom to go wherever I

19 wanted to go.

20 Q. And Sarah Kirkland, am I understanding

21 correctly, also worked for the same solar company as

22 Shawna?

23 A. No. Yes. No. Sarah worked for the

24 same company that Craig worked for prior. Craig

25 and -- Craig and Sarah worked for another company.

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1 It was called Solar sales. Solar, S-O-L-A-R.
2 Sales, S-A-L-E-S. And it was out of Georgia. That
3 is where those two met.

4 Q. Well, it sounds like they didn't work
5 there very long.

6 A. No. It was a very short-lived. The
7 reason that I was explained why they -- why they
8 left was because they was not being paid. So I do
9 remember being told that's why they left and
10 developed Solar Titan USA.

11 Q. Did they take what they learned at Solar
12 Sales and apply it to their development of Solar
13 Titan?

14 A. I'm assuming whatever they learned was
15 very short, because it was a very short time that
16 they was there. So, to answer your question, no, I
17 do not know the answer to that one.

18 Q. What made you want to leave Exploria and
19 then go to work for Solar Titan?

20 A. Money.

21 Q. And then Craig sort of -- he told you
22 how much money that you could expect to make while
23 working there?

24 A. He just told me -- he just told me -- he
25 said, "You can make what you want to make." And

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1 that's pretty much -- that's what I did.

2 Q. When you say you can make what you want
3 to make, that's because you were paid primarily on
4 commission?

5 A. Yes. I was paid a straight commission.

6 Q. Straight commission. So there was no
7 base rate or anything?

8 A. No.

9 Q. Can you explain your commission pay
10 scale.

11 A. My commission pay scale started out as
12 5 percent on the total sales sold. So if we did a
13 sale -- let me grab a calculator. I'm sorry. I can
14 actually break it down for you. If the job was
15 \$50,000, I would get 5 cents on the dollar which
16 would pay me \$2,500. And then I would be paid half
17 of that two weeks after the sale and then I'd get
18 the other remaining half four weeks after the
19 installation has took place or when glass is put on
20 the roof.

21 That is the initial start-up how pay
22 started, and from there until now pay has changed about
23 three different times without even any acknowledgment.
24 They just go ahead and change it without even
25 acknowledging how they're going to change it.

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1 Q. Did you sign a contract when you first
2 started at Solar Titan?

3 A. No, I did not. Everything was on a
4 handshake and verbal.

5 Q. And I want to just -- because you used
6 some industry terms, like "glass on the roof." Can
7 you explain what glass on the roof is?

8 A. That's when solar is actually put on the
9 roof. That is when the installer crew has come out
10 and installed the solar, which is the glass, and
11 that is considered to be a complete job.

12 Q. Okay. Is it considered to be a complete
13 job even if it hasn't passed inspection?

14 A. In their eyes, yes.

15 Q. In the eyes of Craig, Sarah, and
16 Richard?

17 A. Correct.

18 Q. Even if hasn't passed inspection, you
19 are still as the salesperson expecting to be paid a
20 commission on that sale?

21 A. Yes. Because when glass is on the roof,
22 the company is paid their full amounts. There's no
23 reason to hold -- withhold funding from a sales rep
24 if the company has already paid a hundred percent.

25 Now, backing up prior to this, I was not aware of

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1 this until October of last year that when we
2 actually installed I thought it was a complete job.
3 I thought inspections was already done, everything
4 was connected. I was kept in the dark.

5 As they trained reps, they do not tell the
6 reps the technical side of the installation. They keep
7 us in the dark kind of, but when I think of an
8 installation is a complete installation. That's all
9 permanent inspections complete and the system is turned
10 on and running. That's what I think when I think of a
11 complete, but, no, they was only getting halfway there,
12 getting paid, moving on to another thing.

13 Q. And we'll -- we'll definitely talk about
14 all that, but I wanted to mention something that you
15 brought up about your training. You mentioned
16 specifically that whenever you are trained, they
17 didn't really explain to you the technical aspect of
18 the installation. I just want to ask generally,
19 tell me a little bit about the training that you had
20 before you even started working with Solar Titan.
21 Who trained you?

22 A. Craig Kelley.

23 Q. And did Craig Kelley give you any
24 training material?

25 A. I have very little. Everything that I

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1 have is actually recorded. Like I said, guys, I
2 have a TBI. It's better for me to listen to

3 recordings. I have recordings of him. I rode with
4 him for about 30 to 60 days -- rode with him
5 personally and listened to his sales pitch.

6 Q. So you have more on-the-job-type
7 training?

8 A. I did.

9 Q. You said you were in training for almost
10 60 days?

11 A. We'll say 60 days, correct.

12 Q. But during that time you probably led
13 some of the sales?

14 A. No, I did not.

15 Q. You just --

16 A. I was not for sure if I was going to
17 even come on board.

18 Q. What convinced you I guess during the
19 training to say, hey, this is something that I want
20 to do?

21 A. I enjoyed the freedom. That was the
22 best thing about it was the freedom. No one ever
23 called. No one -- it was just the freedom of the
24 job. You had three appointments -- three to four
25 appointments per day, you're done, you go home.

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1 That's why I didn't take the management role. They
2 actually offered me the director or the VP of sales,
3 but I did not want to deal with people.

4 Q. What types of things were you taught in
5 your training. I know that that's a very broad
6 question, but I want you to try your best to answer
7 it and then I'll ask you more specific questions
8 based on your answers.

9 A. What was I taught?

10 Q. How were you taught to sell the product?

11 A. How I was taught to sell the product?
12 Well, how I was taught to sell the product is the
13 money. We have what's called the "anyway money,"
14 and the anyway money is the money you're going to be
15 spending anyway for your electricity. And here is
16 kind of a pitch that they actually use in-house and
17 it kind of will explain how everything goes with
18 that.

19 Q. So let me, just for the record, the
20 document you just handed me is titled "Anyway Money
21 Pitch," and this is part of -- it looks like part of
22 something that's a larger book that's called "Solar
23 Titan USA Professional Development"; is that right?

24 A. That's correct.

25 Q. Can you tell me about what -- what is

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1 Solar Titan USA Professional Development? Do you
2 know?

3 A. That is their sales side where they do
4 sales training.

5 Q. It's like the training booklet?

6 A. Yes, it is.

7 Q. Is that something that they gave to you?

8 A. No, I did not have that.

9 Q. How did you get this -- I guess this is
10 just one small part of that book?

11 A. That was actually shared with something
12 that I had in my files. When I went into the office
13 which was for -- it wasn't that much, but when I did
14 go in the office, people would always ask me, "How
15 do you sell so much versus everybody else?" And I
16 always say, "It's the anyway money." And that's the
17 sales pitch that all the other reps use is how you
18 actually -- how you set the sale up to sell.

19 MS. DANIELS-HILL: Just for the
20 record, we'd like to mark this as Exhibit 2.

21 (Marked Exhibit 2.)

22 THE WITNESS: It's set up just as
23 simple conversation as we are having here today. Now,
24 that's my sales pitch. Now, as they started hiring
25 employees, they started -- they have a whole another

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1 sales pitch. I don't know how that is set up.

2 BY MR. KEEN:

3 Q. Can you tell me about what the anyway --
4 you know --

5 MS. DANIELS-HILL: Before we get into
6 the details of this, I want to ask a few follow-up
7 questions about this. You said you got this from the
8 office. How long ago did you get this anyway pitch?

9 THE WITNESS: I probably had it for at
10 least two years.

11 MS. DANIELS-HILL: Who in the office
12 actually gave it to you?

13 THE WITNESS: Shawna Helton.

14 MS. DANIELS-HILL: Why was she giving
15 that to you?

16 THE WITNESS: She asked me if I wanted
17 it, and I threw it in my box.

18 MS. DANIELS-HILL: Was it supposed to
19 assist you on your sales?

20 THE WITNESS: No.

21 MS. DANIELS-HILL: Do you know why she
22 would have thought you might want a copy of that?

23 THE WITNESS: She handed me a copy of
24 that if a sales rep would ever ride with me. They did
25 occasionally. I had a separate presentation versus

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1 what they had. And when they went with me, they would
2 look like a deer in the headlights compared to what
3 they have -- what they've done.

4 You know, I keep things very simple.
5 This here is complicated. Simple -- simple works the
6 best. It's to the point. Everything is laid out, and
7 it's -- versus this here. This here is five pages of
8 stuff that you don't need to go into.

9 BY MR. KEEN:

10 Q. Tell me -- so how would you do your
11 sales pitch?

12 A. My sales pitch is, "When did you realize
13 it was the smart thing to do that you could produce
14 your own power instead of being a lifetime
15 electrical customer?" And that's pretty much how my
16 pitch started.

17 And I would ask you for your electric bill.
18 Then I would find out how much you spent per year for
19 your electric. I looked at your kilowatt usage, and
20 then I would build a package to suit your needs. I
21 would ask the customer, "Are you looking to -- what are
22 you looking to offset? Are you looking to offset
23 50 percent? Are you looking to offset 90 percent?"
24 And they would share what they was wanting to do.

25 I would build a package then. Then I would

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1 actually set the pricing up and go through, you know,
2 the benefits of solar to them. You know, some of the
3 benefits of solar is it actually increases your home
4 value by 10 to 15 percent. The Department of Energy --
5 you have the investment tax credit which is 26 percent
6 if you qualify.

7 Also, there's no sales tax in the state of
8 Tennessee, and I would go through the financing that we
9 offer, and then I would offer the two packages to the
10 customer. Now, that is my sales pitch. What they
11 trained now is totally different. I was taught that
12 sales pitch from the owner.

13 Q. When you say what they train now is
14 totally different, can you explain what it is that
15 they train now?

16 A. I do not know that, Sam. That was
17 something that I never did get involved with.

18 Q. Okay.

19 MS. DANIELS-HILL: Who does the
20 training now?

21 THE WITNESS: John Carroll.

22 MS. DANIELS-HILL: Was there anyone
23 prior to him that did the training?

24 THE WITNESS: Shawna Helton.

25 MS. DANIELS-HILL: Do you know what

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1 time period Shawna Helton would have done the training?

2 THE WITNESS: Shawna started in

3 February or -- January or February of 2020. She
4 probably done the training up to the middle to the last
5 of October of 2020, and then John Carroll stepped in.

6 MS. DANIELS-HILL: And he's been the
7 one training reps since then?

8 THE WITNESS: Yes.

9 BY MR. KEEN:

10 Q. How did you get leads?

11 A. The leads comes in from my appointment
12 center. I had two dedicated appointment centers for
13 myself. All the leads -- I was told they came from
14 either Facebook or Google and the customers went in
15 and punched their names in with their information
16 and then from there the call center would actually
17 reach out to the customers and call them and
18 actually set the appointments up. And then I would
19 go out and actually see the customers.

20 Q. So you didn't have to generate your own
21 leads?

22 A. That's correct.

23 Q. Did you ever try to generate your own
24 leads? Meaning did you ever ask a customer for
25 referrals or anything like that?

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1 A. Yes, I did.

2 Q. Can you tell me a little bit about that.

3 A. I would literally get the leads from the
4 customers. They would share their names and
5 information. I would actually forward them into Kay
6 Warren. She is the head of the call center, and she
7 actually would call the customers and try to set up
8 appointments for me.

9 Q. For the leads that you didn't generate
10 yourself -- for the leads that were given to you,
11 what did they tell you about the customers ahead of
12 time?

13 A. They would give me their names and
14 information and what their average electric bill is.

15 MS. DANIELS-HILL: Do you know how
16 they knew what the average electric bill was?

17 THE WITNESS: They would ask the
18 customer.

19 MS. DANIELS-HILL: So it was just
20 information coming from the customer about what they
21 normally paid?

22 THE WITNESS: Yes, correct.

23 BY MR. KEEN:

24 Q. Is that information that they would type
25 into the online form that they would fill out?

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1 A. They would either type it in or give it
2 verbally.

3 Q. So if a customer filled out the form
4 online basically asking to be contacted by the
5 company, the company would call in and they would
6 ask follow-up questions about --

7 A. That's correct. They would ask -- the
8 first couple questions they asked are, "Are you the
9 actual homeowner? Do you reside in a home -- a
10 stick built or a mobile home? Do you have a credit
11 score of 650 or higher? And what is your average
12 electric bill?" That's kind of the four or five
13 questions they would ask when they actually called.

14 Q. Sort of to determine eligibility?

15 A. That is correct.

16 Q. Why would they ask if they were in a
17 mobile home or a stick-built home?

18 A. Because a lot of your single-wides
19 versus a double-wide you cannot do a solar roof
20 project. We would turn down the single mobile homes
21 unless they owned land, meaning they owned a half
22 acre of land or more.

23 Q. And then you could -- the reason why you
24 would ask if they owned the land is because you
25 could install the panels on the land itself and not

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1 on the structure?

2 A. Correct. Which is called a ground
3 mount.

4 Q. If someone did live on a mobile home or
5 in a mobile home, how would you know whether or not
6 you could actually install on the structure or not?

7 A. The appointment center would literally
8 pull it up from Google Maps and by asking questions.
9 And there have been jobs that I have been sent out
10 which is actually a single-wide that we could not
11 even attempt to do an installation.

12 Some of the appointments that we was
13 probably sent out -- probably 1 out of 10 was duds,
14 which is what we called that we could not install
15 nothing. But they would still want us to try to sell
16 them something, but when you could not even install,
17 there's no use of wasting their time or our time.

18 Q. What do you mean they would still want
19 you to try to sell them something?

20 A. They would want us to try to put a
21 system on the property.

22 Q. Even if it couldn't be safely installed?

23 A. Yes, yes. They would go through
24 every -- every means trying to get something to be
25 installed.

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1 Q. Who is "they"?

2 A. Craig or Shawna.

3 Q. So if you told Craig or Shawna that you
4 went out to a potential customer's home and it was a
5 dud, they would say, "Well, we don't care. We still
6 want you to sell"?

7 A. Yes, if it's any way possible.

8 Q. Have you ever sold or have you ever
9 known of a sale on a structure that it wouldn't be
10 safe to install on?

11 A. No, I do not.

12 MR. KEEN: How many customers would
13 you go to -- well, first, do you have any follow-up
14 questions on that?

15 MS. DANIELS-HILL: Yeah, I did have a
16 few. So when you said the call center would Google Map
17 it, how do you know what the call center normally asks
18 customers?

19 THE WITNESS: Kay Warren. She told me
20 the process that they normally ask is -- she said
21 that's probably the top four to five questions they
22 normally ask.

23 MS. DANIELS-HILL: What was the reason
24 she was explaining to you what they normally ask
25 customers?

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1 THE WITNESS: Her and I developed a
2 relationship. This is how it came up. I was -- from
3 time to time I would go to what's called a dud
4 appointment, and literally pull up and it would be a
5 single-wide, no credit. The first -- when you first
6 pull up and a place looks pretty bad, you pretty much
7 know that you're not going to get nowhere. You kind of
8 develop, just like you guys -- we all development our
9 traits that our gut tells us yes or no. And it's just
10 one of those -- you know, one of those things that you
11 develop.

12 And, you know, I have been in some of
13 the "dumpest" places in Tennessee, Kentucky, and
14 Virginia. And you can pretty much know that this is
15 not going to be a sale. And I would call in to Kay,
16 and I would ask Kay -- I said, "Kay, why was this
17 appointment set for?" And she would go into it and
18 tell me who actually set the appointment, and they
19 would actually go talk to the person.

20 MS. DANIELS-HILL: And did Kay have a
21 boss that she reported to or was she her own boss?

22 THE WITNESS: She reported to Craig
23 Kelley.

24 BY MR. KEEN:

25 Q. So how many -- first, let me -- did you

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1 work Monday through Friday? Did you work Saturdays
2 sometimes?

3 A. My first year I worked seven days a
4 week. I run three to four appointments per day.

5 Q. So we're talking 20 appointments a week?

6 A. Every bit, yes, or more.

7 Q. How many sales would you expect to get
8 out of those 20 appointments?

9 A. Seventeen. Sixteen to 17.

10 Q. Wow. So you are killing it.

11 A. I became a master.

12 Q. Yeah, it sounds like it.

13 A. Master of my talent.

14 Q. Well, good. So three to four a day,
15 seven days a week, but you said you stopped doing
16 seven days a week after some time?

17 A. I did.

18 Q. Did you -- would you do six days a week
19 then?

20 A. I cut myself down to about six days a
21 week. I would work Monday through Saturday, take
22 off Sundays, and then later I cut myself even
23 further back down to five days a week. And then the
24 last 16 weeks, I might not work then.

25 Q. You said you worked?

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1 A. I worked zero for them.

2 Q. How long ago was that whenever you
3 started -- when you basically stopped?

4 A. Pretty much the last week in March. We
5 started having issues. We had a pay change in
6 December that they sent out documents for. No one
7 was -- no one signed it. Well -- but they went
8 ahead and done it anyway.

9 See, my pay was never supposed to change
10 ever, but my pay got changed. This actually happened
11 in October. That's when I realized there was something
12 going on. That's when I started noticing that my pay
13 was changing dramatically. What I was being paid on
14 the 5 percent was being changed, and they sent out
15 what's called a "Non-disclosure, Non-compete, and
16 Non-solicitation Agreement" to all the employees. I
17 refused to sign it. I've never signed it.

18 Q. What did they say about you not signing
19 it?

20 A. He told me to sign it or you will be
21 terminated, and I said, "Fire me." But he never
22 did.

23 Q. Can you tell me what -- what it is that
24 you just handed me?

25 A. That is a non-disclosure agreement where

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1 I am not allowed to talk to anyone about the sales
2 process at Solar Titan, not to talk about the

3 customers in no shape and form, and I think that's
4 kind of what lead up to it.

5 Q. You said this was given to you in
6 October of 2021?

7 A. Let me back up. That was given to me in
8 October of, yes, 2021.

9 Q. And who gave that to you again?

10 A. Craig Kelley.

11 MS. DANIELS-HILL: We'll have this
12 marked, for the record, as Exhibit 3.

13 (Marked Exhibit 3.)

14 BY MR. KEEN:

15 Q. So this document that we have marked
16 Exhibit 3 is titled "Non-disclosure,
17 Non-competition, and Non-solicitation Agreement."
18 And I know that you just explained what's in it, but
19 will you just kind of say again what your
20 understanding of it is.

21 A. That is that we cannot -- as a Solar
22 employee with Solar Titan, we cannot work for no
23 other company for "X" amount of months or years,
24 that we are not allowed to talk about customers and
25 nothing negative about the company.

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1 Q. Do you know why that they gave this to
2 you?

3 A. I do not know why. All the employees
4 was given that. That is pretty much when everything
5 started to start falling apart.

6 Q. Tell me about -- what do you mean when
7 stuff started falling apart?

8 A. Our installations got to the point that
9 they was not -- we had -- some of the information I
10 have here with me was what was given to the company
11 at the start, and we was told -- I was told at the
12 time this is what our systems will produce. This
13 was my initial paperwork given to me about what each
14 system would produce for kilowatt-wise. And these
15 numbers -- if you add them up, they are incorrect.
16 A 4 kilowatt will produce nowhere near 800 kilowatts
17 per month. The max that the four will produce is
18 five, and that's on a good day.

19 And these were the numbers that I was
20 selling off of to customers because I was given -- I
21 was told this is the correct information from the
22 company. And I later found out that we was selling a
23 system that was not producing anywhere close to what we
24 was promised. This was given by Craig Kelley and Sarah
25 Kirkland.

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1 Q. So this is a document that you just
2 handed to me. It says, "What Starting Size Solar

3 System to Recommend: This is a Guideline."

4 You testified earlier that whenever you are
5 asking a customer what it is they wanted, you would
6 build them a system that could meet their needs.

7 A. That is correct.

8 Q. And you're saying that you used this
9 guideline in order to come up with the system that
10 you thought met their needs?

11 A. Yes, based on what the customer told me
12 and shared with me with his electric bill. When a
13 customer gives you an electric bill, it shows you a
14 broad, across the 12 months of what they currently
15 use. And what they call that is they call it a
16 kilowatt hour, and that's what a customer uses per
17 month. And we would take that number by those 12
18 months, divide it by 12 to find out the average
19 kilowatt usage. Then we would look at the kilowatt
20 usage per average and base it off of those numbers
21 there.

22 Q. But what you're telling me is that the
23 numbers here on this document are incorrect?

24 A. Yes.

25 Q. So let me ask you some questions about

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1 this document then. When did you first get this
2 document?

3 A. That document was given to me in
4 November of 2019.

5 Q. Who gave it to you?

6 A. Craig Kelley and Sarah Kirkland.

7 Q. And what did they tell you whenever they
8 gave you this document?

9 A. That would be the document we would use
10 to -- for our customers to base on their system
11 size.

12 Q. And so you did use this document?

13 A. I used it for years, yes.

14 MR. KEEN: I'm going to ask that this
15 be marked as Exhibit 4.

16 (Marked Exhibit 4.)

17 BY MR. KEEN:

18 Q. At the time that they gave you this
19 document, did you have any reason to believe that
20 what was contained within it wasn't accurate?

21 A. No, I did not.

22 Q. How did you go from understanding this
23 to be accurate to now understanding that it's not
24 accurate?

25 A. This came out. They sent me another

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1 document, and they updated it and the numbers are
2 still not correct. Then later last year I found out

3 how to actually add up the correct -- how to
4 determine the correct system.

5 This was a document sent out by Sarah
6 Kirkland with updated information. We were told by --
7 by Shawna, which Shawna was told by Craig and Sarah,
8 that we've been selling a system that's not even
9 correct. The majority of the sales reps at the time
10 left because we as reps have been selling these systems
11 based on these numbers here that it actually would
12 produce and finding out later they are nowhere close.

13 Q. So the document that you just handed me
14 is titled "Solar System Sizing Guideline QCell 400"?

15 A. Correct.

16 Q. This is an updated sizing guideline from
17 the one that we previously talked about, Exhibit 4?

18 A. Yes.

19 Q. When did you get this?

20 A. I received that in October of -- October
21 of last year.

22 Q. So at the same time that they gave you
23 the non-disclosure?

24 A. Uh-huh. (Witness moves head up and
25 down.)

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1 Q. Did they give it to you like at the
2 exact same time?

3 A. No. It was sent at a separate time.

4 Q. Which one came first?

5 A. (Indicating.) That came first. That
6 came second.

7 Q. When you say "that" --

8 A. That -- the non-disclosure came first,
9 and then that came second. That probably came more
10 in November versus October.

11 MR. KEEN: Let me have this marked as
12 Exhibit 5.

13 (Marked Exhibit 5.)

14 MS. DANIELS-HILL: I have a question
15 about Exhibit 4 which was the first panel guideline
16 that you received. Do you know who created this?

17 THE WITNESS: Craig Kelley.

18 MS. DANIELS-HILL: How do you know
19 that?

20 THE WITNESS: He printed it off his
21 computer at home.

22 MS. DANIELS-HILL: Were you actually
23 there when he did that?

24 THE WITNESS: Yes, I was. I was
25 dropping off checks.

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1 MS. DANIELS-HILL: For Exhibit 5, do
2 you know who created that document?

3 THE WITNESS: I do not. That was
4 sent -- by email it was sent by Sarah Kirkland. And to
5 add to this, there's another document out there that I
6 do not have a copy of that they updated this again.
7 The systems that they was installing was not producing
8 nowhere near what they was saying.

9 BY MR. KEEN:

10 Q. They updated it with numbers that are
11 lower than the ones in the second document?

12 A. Yes.

13 Q. So, for example, in the first document,
14 in Exhibit 4, it says that 4 kilowatts is -- a 4
15 kilowatt system is for a usage of 800 kilowatts and
16 under?

17 A. Correct.

18 Q. In the second one, now it says 4
19 kilowatts is now for only 600 kilowatts and under?

20 A. That's correct.

21 Q. Now, in the third document, now they're
22 saying --

23 A. A 4 kilowatt will produce anywhere up to
24 500.

25 Q. And you say whenever -- around the time

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1 they sent out the non-disclosure agreement and this
2 new sizing guideline is whenever a lot of
3 salespeople left?

4 A. That's correct.

5 Q. And your understanding of why they left
6 is because they didn't like the fact that they were
7 selling something that wasn't factually accurate?

8 A. That's correct.

9 Q. Did anyone tell you that specifically?

10 A. I heard that from a couple reps. One is
11 Todd Kelley. He lives in Kentucky. His information
12 has also been sent to you, and also have a list of
13 what's called customers of interest and these are
14 some of the customers that I have dealt with for in
15 the past that was -- was based on these numbers here
16 of the sizing system that the system is nowhere
17 producing what they're supposed to be producing.

18 And Todd's name is actually on here. He is
19 actually on the email that I sent you too of former
20 reps that you should contact for information.

21 Q. Do you know why they created these
22 guidelines?

23 A. I have no idea why, but I see the
24 benefit of them after seeing it. We was able to go
25 out and sell a system that was a lesser system than

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1 the other company was selling but for a higher
2 dollar. It's profit. All it is is a profit margin

3 for them. When you can sell a system that a 4K that
4 would say that would produce 800 kilowatts and
5 for -- had a \$5 price mark, they're pretty much
6 taking about 70 percent profit in.

7 Q. So you think that this gave them a
8 competitive advantage?

9 A. This gave them an advantage. If it was
10 done correctly, yes, but it was not done correctly.
11 You know, I've been in sales all my life, and I
12 believe in selling a product that actually works.
13 And when you have -- when you lose friends -- best
14 friends over this, and your best friend tells you
15 the system is not working correctly and it's not
16 producing nowhere near, that's kind of when you get
17 a red flag and you know that something is wrong.

18 And for the longest time I did not leave my
19 phone number out there. Customers would call in and
20 complain, and it did not make sense to me. And I
21 started leaving my number with them, and this is where
22 all this has boiled up from October. That -- now I'm
23 seeing the full picture of things not being done
24 correctly, not being installed correctly or just
25 totally being left and not -- customers -- K.C. Johnson

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1 in -- he's in Tennessee. Literally he sat for pretty
2 much a year and a half and was paying for a system that
3 did not have nothing, and I did not know that until I
4 reached out to him. He just like, "I don't have a
5 system but I'm paying for it." I said, "Why are you
6 paying for it? Why didn't you call me?" "Well, I
7 didn't have your number." "Well, you do now."

8 And he just -- I can go back to customers
9 that I've been in contact here recently just finding
10 out stuff now that I thought was completed, done,
11 installed, and produced their own power, and they're
12 not. And the system that we were selling that we was
13 told by them that would produce is nowhere near that.

14 Q. So when the company found out that what
15 they were telling people was not accurate --

16 A. The company already knew this. It's not
17 that they didn't find out. They already knew this.

18 Q. How do you know they knew it?

19 A. Sarah went to training to -- it's called
20 PV training. It's handled by NABCEP. N-A-C -- I'm
21 not for sure how it is. It is a company that
22 trained people in solar. It tells them how to do --
23 how their systems produce, what size the system
24 produces, everything.

25 It's not like -- you're trained on this.

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1 You literally take a test. You pass it to the state.

2 I'm going to get you the information. Bear with me.

3 So you'll exactly what I'm referring to.

4 MS. DANIELS-HILL: Do you mind
5 explaining just for the record what you're looking up
6 right now just so we have that clear? When you're
7 typing and stuff in the computer, do you mind just
8 explaining what it is that you're searching right now?

9 THE WITNESS: I will in a minute.
10 Just bear with me. I'm pulling up the correct email
11 address for what she was -- so she'll know what I'm
12 referring to. There is a website that all PV -- that
13 all solar companies have a PV. It's a licensed,
14 certified person that knows the federal guidelines of
15 the system, and literally she knows this training of
16 what's actually supposed to be done.

17 MS. DANIELS-HILL: You said it's a PV?

18 THE WITNESS: It's a PV associate.

19 MS. DANIELS-HILL: So Sarah Kirkland
20 is the PV for Solar Titan?

21 THE WITNESS: Yes.

22 BY MR. KEEN:

23 Q. You said it's something that's required
24 of every company?

25 A. Yes. Every company has one in their

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1 company that has this certification before you can
2 even install solar on any home as part of their
3 permitting stuff.

4 Q. Do you know who -- I guess who was that
5 a requirement of? Was that of the State?

6 A. That is a requirement of the State. I'm
7 assuming now. I might be wrong about that now. I
8 don't want to give you false information. I might
9 be wrong about that.

10 Q. No. We'll follow-up on that because
11 I've not heard that.

12 A. That is the website where they actually
13 go for their training to get the PV associate.

14 Q. NABCEP, N-A-B-C-E-P, and what does that
15 stand for? Does it say on there?

16 A. I'll find something for you here shortly
17 for it. You actually become a board certification
18 with it. Let's see here. But that is the
19 requirements that she actually -- she actually
20 tested on. She requires -- it tells her and
21 explains to her everything of the system.

22 Q. A PV installer specialist. So Sarah
23 Kirkland is board certified as a PV installer
24 specialist, and PV stands for photovoltaic?

25 A. Yes, however it's pronounced.

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1 Q. So Sarah knows how to do these
2 calculations?

3 A. Yes, yes.

4 Q. And she did these calculations or the
5 information that she put down was not based on
6 correct calculations?

7 A. That's correct.

8 Q. And you think that she did this
9 intentionally?

10 A. I do not know that to be correct. I
11 just know what they sent out to us later was false
12 information, and they have sent out a third one. I
13 do not have a copy of that one. They updated with
14 the numbers for even less.

15 Q. Did that result in more people leaving?

16 A. Yes, it did.

17 Q. And, again, for the same reason, that
18 they felt like they were misleading?

19 A. Customers, correct.

20 Q. Were all your sales presentation -- were
21 they always in person?

22 A. Yes, it was.

23 Q. How long would the presentation last?

24 A. Anywhere from 30 to 45 minutes.

25 Q. Okay. What time of the day did they

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1 normally happen?

2 A. 9:00, 12:00, 3:00, and 6:00.

3 Q. So you split -- you just divided them
4 out in three-hour increments throughout the day?

5 A. Uh-huh. (Witness moves head up and
6 down.)

7 Q. And was that to give you time to travel?

8 A. Yes.

9 Q. Did you try to set up your appointments
10 so that they were more close together or did you
11 have any control over that?

12 A. Kay did. Kay actually set all my
13 appointments up where everything was pretty much
14 within a 30- to 45-minute drive for me.

15 Q. So we talked about the information that
16 you knew about the customer before even getting to
17 their house. Would you call them ahead of time and
18 say, "Hey, I'm Jason. I'm coming to do your sales
19 presentation" or did they just have an appointment
20 made?

21 A. No. They would do a pre-call the night
22 before just to confirm the appointment. I would
23 always show up anywhere from 20 to 30 minutes early
24 just to --

25 Q. So I know you mentioned that you talked

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1 about the customer's power bill, and I don't want
2 you to walk me through the whole 45-minute

3 presentation. But kind of start -- how did you
4 start the presentation? When did you start talking
5 about the power bill? When did you start talking
6 about how much they could save? And just kind of go
7 through that.

8 A. We'll go through the presentation. It's
9 a very short presentation and -- so you will
10 actually -- will understand it. I would always open
11 up, "When did you realize it was a smart thing that
12 you could produce your own power, hedge yourself and
13 your company from the rising cost of electricity
14 instead of being a lifetime customer?" That was my
15 opening statement.

16 The customer would tell me. Then I would
17 ask for the electric bill, and then I would figure up
18 what they were spending. And then I would actually go
19 back into it. Where you're wanting to get to the money
20 saving -- we was given a printout from the company of
21 what -- if the customer currently had an electric bill
22 let's say of \$110 a month -- this was given to us as an
23 employee of what the customer would have spent in the
24 next 10 years of the loss, and I'm assuming that was
25 set on a 5 percent increase per year. This was

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1 information that we actually would use that towards the
2 customer to persuade them into a purchase.

3 Q. So what you're showing me -- the
4 document you just handed me is titled "Current
5 Lifetime Plan," and basically what it is is it's a
6 table that shows based on the customer's monthly
7 bill what they can expect to pay for electricity
8 over 10 years and over 20 years?

9 A. Correct.

10 Q. And who gave you this document?

11 A. That was given to me from Craig Kelley.

12 Q. Did he send it to you via email or did
13 he hand it to you directly?

14 A. Handed it to me directly.

15 Q. Was this when you first started working
16 with the company?

17 A. Yes.

18 Q. Is it your understanding that Craig made
19 this document or somebody else made this document?

20 A. I don't know who actually made the
21 document, but it was handed by him to me to use
22 that.

23 Q. And this is what you used --

24 A. Yes.

25 Q. -- throughout your time?

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1 A. Uh-huh.

2 MS. DANIELS-HILL: We'll have this

3 marked as Exhibit 6.

4 (Marked Exhibit 6.)

5 THE WITNESS: So going forward from
6 there, I would say, "Okay. Guys, today I'm going to
7 keep this simple. Right now you're purchasing all your
8 electricity with 100 percent loss of your money. This
9 is the plan that you guys have put in place, and it's a
10 lifetime plan. Solar takes us from being a lifetime
11 electrical customer to a power producer. All the money
12 that we're going to talk about here today, guys, is
13 money that you guys are going to be spending anyway.
14 What I call this money is I call this your 'anyway
15 money.'"

16 That's part of the presentation. I
17 would always ask for questions, and that would be it.

18 Q. When you say "anyway money," basically
19 it was saying, hey, you know, the savings that
20 you're going to get from this --

21 A. Is greater.

22 Q. -- is going to offset -- it's greater
23 than the cost of your electric bill over the next 10
24 to 20 years?

25 A. Correct. And it would if those numbers

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1 was correct about what the system would produce.
2 That is where the fault is, is that the systems that
3 they're saying that produces "X" amount does not
4 produce anywhere close to what they're supposed to
5 be producing.

6 Q. You said you would ask customers if they
7 had any questions?

8 A. Yes.

9 Q. What types of questions would they have?

10 A. They would ask me does it work? Do you
11 see this going forward in the future? They would
12 ask me -- we would get into questions that would
13 really -- probably one out of ten would ask about
14 solar. The rest would be about -- it's funny that
15 solar brings up God and politics, and that was kind
16 of the lead they would be going. I would go back,
17 "Guys, today we're going to keep it simple.
18 Politics and religion we're not going to talk
19 about." And then I would go right back into it, and
20 then I would start getting the calculation up about
21 how much money they spent per year for their
22 electric bill.

23 Then I would go right back into it, and I
24 would say, "Like I said, guys, all the money we're
25 going to talk about today, guys, is money that you guys

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1 are going to be spending anyway." And what I'm
2 actually looking at is my sales presentation here and
3 what I actually -- it's never changed. It's been the
4 same since day one. I'm not referencing. I've not
5 used it in the last 16 to 17 weeks.

6 Q. Did they ever ask about the tax credit?

7 A. They did. We always tell them -- now, I
8 don't know what other people did. I will back up
9 and we'll talk a little bit about that. When I was
10 first trained on the tax credit, I was told that
11 everybody got it. And then later I found out that
12 it was not.

13 Q. Who told you that everybody got the tax
14 credit?

15 A. Craig Kelley. I have voice recordings
16 of him doing presentations with it. They are
17 actually on my phone. That was how I was actually
18 trained. I actually rode with Craig Kelley about 60
19 days prior to me even accepting the position.

20 Q. So Craig would tell customers you're
21 going to get a 26 percent tax credit on this?

22 A. That's correct.

23 Q. And was he telling customers that --
24 that they would get basically a tax refund of
25 26 percent of the cost?

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1 A. Of the system.

2 Q. The cost of the system or the cost
3 overall of the system plus the financing?

4 A. The cost of the total system. So if the
5 system was -- we'll keep it simple -- 10,000, they
6 would get \$2,600 back.

7 Q. But even if they ended up paying 15 with
8 the financing and everything --

9 A. That's with financing with the 10,000.
10 They would get 26 of it.

11 MS. DANIELS-HILL: When you say "of
12 the system," are you including installation in that
13 cost?

14 THE WITNESS: Yes. Yeah. They offer
15 a what's called a turnkey. That includes everything.

16 BY MR. KEEN:

17 Q. When did you find out that that was not
18 correct?

19 A. I found out last October.

20 Q. And when I say that was not correct, I
21 mean that everybody gets the 26 percent tax credit?

22 A. I found out in October -- everything
23 that you're asking came to light about October of
24 last year. That's when I realized there was a lot
25 of things going on that I -- my wife told me -- she

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1 said, "You need to open your eyes up and look around
2 you. Something is not right here." And I started

3 doing my own research and started finding out that a
4 lot of stuff was not correct -- was not done.

5 It's like the -- it's like the whole year
6 and a half, whatever, has been a big lie. But that was
7 how I was trained to sell the system, and the
8 26 percent -- I later found out too how it actually did
9 work. It was against their tax liability. I was not
10 told that. I was told that everybody -- anyone that
11 paid taxes got it. They can either get it in one lump
12 sum or take it in a five-year increment.

13 Q. Did you ever hear from customers that
14 what was initially told to them about the tax credit
15 wasn't true and that they were upset about that?

16 A. Yes, I have.

17 Q. What was -- what was -- first let me ask
18 you what was your response to those customers?

19 A. I was always telling them to get a CPA
20 to actually handle it. It's pointblank how it's
21 written online. It's 26 percent of your tax, but
22 yes. There have been customers out there that I'm
23 assuming that has been royally screwed over over
24 that and -- as I found out in October. This is not
25 right.

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1 Q. What would the -- would they ever
2 contact the company to complain about the tax
3 credit?

4 A. Yes. I'm assuming that they -- now, I
5 do not know that firsthand, but I have had customers
6 call me about it. One customer in particular is
7 Deanne Smith. She's actually on a list I'm going to
8 give you shortly. It's called "Customers of
9 Interest" that has some names of customers that I
10 have spoke to in the past.

11 Some shady stuff has went on with them and
12 the company, and some things you need to -- it's worth
13 the phone call to the customer if you're wanting
14 information. A lot of these customers I have spoke to
15 personally. Many of these customers I have sent
16 tickets into the company, called about the customer,
17 and literally would -- cannot get no words or being
18 told the customer is lying and I just need to not deal
19 with it.

20 Sales -- they would tell me sales is your
21 department, not customer service, and I would continue
22 to try to push. And you get to the point where
23 you're -- you're up against a wall and nothing was
24 being done about it.

25 Q. You said that you would put a ticket in?

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1 A. Uh-huh. (Witness moves head up and
2 down.)

3 Q. What does that mean?

4 A. A ticket -- it's like -- I had a direct
5 connection with Sarah and Craig, and anytime I
6 submitted a ticket -- what I meant by ticket is a
7 text message to them. I literally had direct
8 connection to them if I ever had anything going on.
9 Out of all the employees, I was the only one to have
10 a direct connect to both of them. So literally when
11 I say I have since 2019 several hundred pages of
12 conversations with them.

13 I have customers that have called me and
14 said the system is not working, and I would send in a
15 text message to them saying that we need to look at
16 this system and see what's going on with it, why is it
17 not working. And a lot would get -- and Craig would
18 get back and say it's just the customer BS'ing, lying,
19 or they're wanting something for free. And for the
20 longest time I actually thought that, but as I learnt
21 firsthand, it was not going on. I was finding out from
22 customers and from friends that the systems that we was
23 selling did not work nowheres or was not completed or
24 have never been installed.

25 Q. So we've talked about customer

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1 complaints about the system not working like it
2 should. We've talked about customer complaints
3 about the tax credit. Let's talk about the
4 system -- the actual installation itself for a
5 minute, if you can. So what were the customers told
6 would be the time line in terms of install at the
7 time of sale?

8 A. Four to six weeks.

9 Q. And, in your experience, was that
10 typical?

11 A. I never did know nothing really about it
12 unless the customer called me. The installation
13 side -- that was more of a Sarah Kirkland and Ernie
14 Bussell. Bussell I think is how you pronounce his
15 last name. And they recently replaced him with a
16 guy named Dale. I don't know what Dale's last name
17 is. But as far as installation, I used to have
18 access to that from my computer, and they took all
19 that away from me when I started ruffling the
20 feathers.

21 Q. What do you mean you had access to it on
22 your computer?

23 A. I used to be able to see each
24 installation, the pictures, and when they actually
25 was going to install the system.

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1 Q. So you would be able to keep up with the
2 progress?

3 A. Yes. Because at the time I was aware
4 that the company was keeping money from me
5 personally. That's when I was continuing to
6 research it.

7 Q. Meaning you weren't being paid upon
8 successful installation?

9 A. I was not being paid for the job. There
10 are several jobs that I have been sold that I have
11 been told from management that the customers
12 canceled, and I actually went back and met the
13 customer and their system has been installed or
14 working correctly.

15 Q. And whenever you started raising those
16 issues -- to Craig --

17 A. Yes.

18 Q. -- or Sarah?

19 A. Craig.

20 Q. Okay. You said that your access was
21 revoked?

22 A. Correct. I was restricted.

23 Q. So is this something -- is this a system
24 like company-wide?

25 A. Uh-huh. It's called Sales Force.

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1 That's what the company used. It's called a CRM.
2 We use -- they use Sales Force. They also have
3 what's called Market Sharp. Sales Force came later.
4 Before Sales Force it was called Market Sharp and
5 all the personal information from the customers
6 stored data. All the data in -- all the information
7 from the customer.

8 Q. Like a database for each customer?

9 A. That's correct. And they had all the
10 pictures of the installation, who did that, who
11 installed it. I also have what the numbers they
12 predicted that the system was going to produce. It
13 had a lot of detailed information in it.

14 Q. What about permits?

15 A. Yes. Supposed to have permits and all
16 that stuff.

17 Q. So I want to back up to when I asked you
18 about the four- to six-week time line. Did you ever
19 find out that the installations were not happening
20 within the time line that customers thought that it
21 should happen in?

22 A. Yes.

23 Q. Can you tell me about some of your
24 experiences with that.

25 A. Some of the customers here -- one is

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1 called -- his name is Casey Johnson. He lives in
2 Nashville, Tennessee. The job was actually sold --

3 I actually sent you an email on that customer. He
4 was sold in November, December of 2020. As of a
5 couple weeks ago his system at his home is still not
6 installed correctly, still not working.

7 The customer has continued to pay his bill
8 because if you don't pay your bill, they file on your
9 credit. He is one of the customers -- him and I have
10 talked off and on since last year since finding out
11 that things have not been done correctly.

12 There also was a woman -- well, I don't --
13 this is all from an email to -- from Shawna about the
14 woman being electrocuted in Georgia. There are several
15 customers in Alabama that I have sold to that is not
16 had their system installed and paying for their system.

17 There's a customer here in Nashville that
18 I've got a lot of talk with back and forth. I have
19 sent multiple messages in to Craig and Sarah about him,
20 and nothing has seemed to be done since I have sent
21 messages. I've been told that he is just a pain in
22 their side and that they're not moving forward doing
23 nothing. They are not moving forward to do nothing
24 quickly for him whatsoever. It's like the more you
25 complain, the slower they get.

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1 Q. What's the name of that customer?

2 A. This customer name is David Evenson,
3 E-V-E-N-S-O-N. His phone number is 312-256-0998. I
4 also have a copy here if you need it, so you will
5 have that.

6 Q. This is a list of customers that are
7 having problems?

8 A. And it's missing one name. Let me add
9 one name. Actually, I've got two here that I do not
10 have. I apologize.

11 MS. DANIELS-HILL: Just to clarify.
12 You said there was one customer who was sold the system
13 in November or December of 2020, and the system still
14 isn't working today. When you say still not working
15 today, do you mean it's not producing any solar energy
16 or it's not producing as much as what he was sold?

17 THE WITNESS: One of his systems is
18 connected finally. It happened this year. And the one
19 at his home as of a couple weeks back is still not
20 working. What I mean by working, it's not turned on.

21 BY MR. KEEN:

22 Q. This is Mr. Casey Johnson?

23 A. That is correct.

24 Q. If I recall correctly, he bought one
25 system for his house and one for his business?

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1 A. That is correct. Have you spoke with
2 him yet?

3 Q. I have spoken with Mr. Johnson.

4 A. Because I gave him your number, and I
5 also gave you his information.

6 Q. Yes, I spoke with Mr. Johnson.

7 A. Great guy. Just sad that he got tied
8 up.

9 MR. KEEN: Okay. I don't think we
10 need to make this an exhibit.

11 MS. DANIELS-HILL: No.

12 BY MR. KEEN:

13 Q. But, just for the record, a list of
14 customers' names and their phone numbers was
15 provided.

16 A. Do you want to go through each of the
17 customers so you'll know for the record what --

18 Q. You said David Evenson, Nashville
19 customer. He's having installation troubles?

20 A. That's correct.

21 Q. Charles Ochsner, Louisville, Kentucky?

22 A. He's trying to get removed off of -- he
23 actually sent his letter in within the three days of
24 the customer to cancel their -- the company is still
25 trying to pursue money after him afterwards. This

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1 is some stuff you need to be looked into. I know
2 you've heard of floating the books before.

3 Q. I have.

4 A. This will be what is called floating the
5 books. When the credit company -- Sunlight Mosaic
6 or Dividend -- releases funds -- when Solar Titan
7 submits a ticket in to the finance company, the
8 finance company sends funds over -- correct? -- as a
9 wire transfer. So the money is sitting in the
10 account. The company has access to the money.

11 So if a customer within three days decides
12 to cancel the loan, the customer will send in a
13 certified letter to the company within three days, and
14 he's supposed to be canceled out of the system. So
15 when the customer calls the company and says I canceled
16 and they have no record and the customer provides a
17 record, the company should then cancel out the loan.
18 But what's been done, they are not. They're keeping
19 the funding in there and giving the customer a hard
20 time and telling the customer he can either pay a
21 30 percent fee of the system cost and he can either pay
22 cash or card and be released from the funds. If not,
23 the company will continue to hold the funds, and it's
24 where it comes in kind of floating the cash. Charles
25 is one of the customers that has been involved in that.

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1 Q. So Charles Ochsner -- am I saying that
2 right?

3 A. I don't know how you pronounce his name.

4 Q. But he canceled his loan --

5 A. Within the three days.

6 Q. And he sent it in writing?

7 A. Correct.

8 Q. And the company, Solar Titan, did not
9 inform the lender that Mr. Ochsner had canceled the
10 loan?

11 A. That's correct.

12 Q. And instead what they did is they kept
13 that initial deposit that was sent to -- from the
14 lender to Solar Titan?

15 A. Uh-huh.

16 Q. Now, you said that Solar Titan wants
17 Mr. Ochsner to pay a 30 percent fee. Meaning
18 30 percent of his --

19 A. Total system costs.

20 Q. System costs.

21 A. Before they will actually release him
22 from that.

23 Q. Do you know why they want him to pay
24 30 percent?

25 A. They want the money. They are saying

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1 that the customer did not send in the letter. Now,
2 backing up, I'm going to move around a little bit.
3 This is the stuff that I have learned when you start
4 looking around at things that are going on.

5 Over the last couple of years they have
6 actually changed some things, how the customer actually
7 sends in a cancellation. When a customer -- when a
8 customer sends in a cancellation, the customer has
9 three business days to do it, and it's not including
10 like a weekend or -- we all know what a business day
11 is. And sometimes they try to use the weekday as -- a
12 weekend as a business day, and that's not correct how
13 it's actually worded.

14 Some of the sales agreements on the back
15 has been changed. And we used to use what's called the
16 info@TheIdealHorizon.com. It's actually changed, and
17 that's where the cancellation is, because they can use
18 both sides in this. And they'll ask them, "Where did
19 you send it to?" And they'll say, "Well, that's not on
20 our information. You sent it to the wrong party."

21 Q. So let's just -- who would they send
22 their cancellation to?

23 A. They would send it by mail or
24 directly -- I mean U.S. -- United States certified
25 letter or by email.

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1 Q. And you said something about Ideal
2 Horizon?

3 A. That's correct.

4 Q. What is Ideal Horizon?

5 A. That is their business. Solar Titan is
6 done as d/b/a, doing business as Ideal Horizon.
7 Ideal Horizon is a business that they bought out so
8 they can actually -- I don't know why they initially
9 bought out the other business for, but that is the
10 main business called Ideal Horizon.

11 Q. So the customer would send a letter to
12 Ideal Horizon is what you're saying?

13 A. Yes. To cancel out the -- and they
14 would play the tactic as this is Solar Titan, not
15 Ideal Horizon.

16 Q. So they would say you sent it to the
17 wrong company?

18 A. Correct.

19 Q. Even though it's the exact same company?

20 A. Same company.

21 MS. DANIELS-HILL: I just want to
22 clarify. So are customers using the information that
23 is on the installation agreement to determine where to
24 send the three-day cancellation?

25 THE WITNESS: Yes.

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1 MS. DANIELS-HILL: And then they are
2 doing what they are supposed to under the agreement,
3 and Solar Titan/Ideal Horizon is telling them that's
4 the wrong place?

5 THE WITNESS: That's correct.

6 BY MR. KEEN:

7 Q. And they do that for the purpose of not
8 having to cancel out their loan?

9 A. That's correct.

10 Q. So what you just handed me are blank
11 copies of what's titled "Installation Agreement."
12 And it has in the left-hand corner -- left top
13 corner the Solar Titan USA logo and then in the
14 right top corner an Ideal Horizon Benefits, LLC
15 logo. And you are saying these are two -- they look
16 very similar, but they have two different --

17 A. Email addresses on the back.

18 Q. And that's the big difference between
19 the two?

20 A. Yes. And trying to add to this --

21 MS. DANIELS-HILL: Just one second.
22 Just one second. I want to make sure we get these
23 marked.

24 THE WITNESS: Let me add to this. Let
25 me add to this, just before we go with the break.

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1 These are put in different folders so if the customer
2 does ever decide to cancel within the three days, if

3 they -- if that folder there -- may I please?

4 MS. DANIELS-HILL: Sure.

5 THE WITNESS: If one of these here has
6 customer care, they will say, "No. The email that
7 we've got is info@TheIdealHorizon. Where do you get
8 this email address at?" So they play them together --
9 play them apart.

10 BY MR. KEEN:

11 Q. So if they have one, they'll say, no,
12 you sent it to this Ideal, but if they had the
13 Solar, they will say, no, you sent it to --

14 A. Yes.

15 (Marked Exhibit 7.)

16 THE WITNESS: That also changes, and
17 the phone number changes from the company too
18 occasionally. I've noticed that too.

19 MS. DANIELS-HILL: What do you mean by
20 they put them in different folders?

21 THE WITNESS: Sales folders are built
22 by the sales team. So when I -- when I call in for
23 folders, someone else would build the folder for me,
24 and then they would put different documents in them.
25 So occasionally you would get one that will say

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1 something else and one will say something -- a
2 different, vice versa. And occasionally they would
3 have different phone numbers on them of the company.

4 MS. DANIELS-HILL: Are these sales
5 folders something they build for you to keep or were
6 they for the customers?

7 THE WITNESS: The only sales folders
8 is what we take out to the customer when we go out to
9 actually see the customer to sell the product. And
10 each one was -- they're all built the same, but those
11 two documents that I handed you plays different. One
12 folder might have one in it, and one folder might have
13 the other one in it. So when the customer would call
14 in they'll ask for -- "Are you sending that? Oh, well,
15 that's not our email address. Ours is
16 customercare@SolarTitanUSA."

17 MS. DANIELS-HILL: Do you know if
18 these different email addresses go to the same person?

19 THE WITNESS: The same person.

20 MS. DANIELS-HILL: Who are the ones
21 receiving the emails?

22 THE WITNESS: I actually don't know
23 the person in -- her name -- his or her name, but it
24 goes to the same company. Ideal Horizon and Solar
25 Titan is one company. It's d/b/a, doing business as.

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1 BY MR. KEEN:

2 Q. But you don't know the actual person who
3 is reading those emails?

4 A. I do not. Out of that company, I know
5 probably less than six people personally.

6 Q. Now, if -- when the product is sold, so
7 like before even install happens and the customer
8 signs up with financing -- and they can sign up with
9 financing with primarily one of two companies; is
10 that correct?

11 A. We have three. Sunlight Financial.
12 Mosaic. It's spelled M-O-S-A-I-C. And you have a
13 company called Dividend. It's a new company that
14 they brought on board, and the reason why I'm
15 thinking they were brought on board is because of
16 all the complaints about Mosaic.

17 Q. The -- does Mosaic -- is Mosaic not
18 wanting to work with Solar Titan anymore because of
19 the complaints?

20 A. I do not know that personally. I can't
21 tell you that. I don't know that myself.

22 Q. So the system gets sold, and it's sold
23 as a turnkey. So labor and the system itself --
24 it's all billed as one thing. Am I understanding
25 that correctly?

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- 1 A. Correct, yes.
- 2 Q. So the contract doesn't necessarily
- 3 distinguish between the cost of the system and the
- 4 cost of labor?
- 5 A. It was supposed to include it all.
- 6 Q. Okay. So the system is sold. They sign
- 7 a contract. They sign up for financing with one of
- 8 these companies. How long after the customer signs
- 9 up for financing does the finance company send the
- 10 money to Solar Titan?
- 11 A. As soon as Solar Titan submits the
- 12 paperwork. Literally a matter of hours.
- 13 Q. So the same day?
- 14 A. Same day.
- 15 Q. And how much money is sent to Solar
- 16 Titan --
- 17 A. I do not know that.
- 18 Q. -- at the front end?
- 19 A. I do not know that.
- 20 Q. That's fine.
- 21 A. I'm assuming it's a pretty good chunk.
- 22 Some of the paperwork I was going to show you I
- 23 don't have access of it now. I've been locked out
- 24 of it. But if it's a \$30,000 system, they'll
- 25 probably get \$10,000 upfront.

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1 Q. So a third?

2 A. A third. And then they get the

3 remaining part when the glass is on the roof. As
4 soon as the glass is on the roof, they'll take a
5 picture, submit it in, and it's dropped like that.

6 Q. Let's say Solar Mosaic knows to deposit
7 the rest of the loan to Solar Titan based on Solar
8 Titan's representation that the system is
9 operational?

10 A. That's correct. No, no, no, no. If
11 glass is on the roof. So I don't know if the
12 financing company thinks that the system is
13 operational or not. That is something that I've
14 never got into.

15 Q. So they don't -- so Solar Mosaic, for
16 example, wouldn't actually inquire into whether or
17 not the system is operational before they gave Solar
18 Titan the full amount of the loan?

19 A. I do not know that question.

20 Q. Now, if a customer like Charles, for
21 example -- Charles Ochsner -- he tried to cancel his
22 loan, but it was after apparently Solar Mosaic gave
23 a third of the loan to Solar Titan. Right? So
24 Solar Titan has this money. They have a third of
25 the loan, and now they're telling Charles Ochsner

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1 we'll only cancel you if you pay us 30 percent of
2 your loan install.

3 Why do you -- what -- why do you think
4 they're having Charles Ochsner pay 30 percent of the
5 price after he's canceled within -- you mentioned
6 something about floating the books.

7 A. Floating the books. Money. I believe
8 that the company is on the end of the sinking ship
9 of the things that I've seen just from payroll.
10 When you stop paying your employees or start giving
11 them a ration of your pay, that's kind of a sign
12 that there's something going on.

13 When you start seeing cars being sold and
14 property being sold, that's kind of a red flag that,
15 you know, they don't have the money or they're moving
16 money around. Charles is probably not the only
17 customer that's been done that way. I'm assuming over
18 the years -- and at one time we had probably 80-plus
19 sales reps. And I'm assuming this happened many other
20 times. Charles is -- like I say, he's a great man. He
21 lives in Louisville, Kentucky. He canceled within his
22 time. They're just trying to hold him out, and they
23 might eventually let him off the loan, but with that
24 money into the bank, which is cash flow -- there has
25 always been a cash flow problem with them. They like

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1 to spend money, I will say that, from what I've seen.
2 They like to spend money. They don't care to spend it.

3 Then when the finance company finds out
4 that Charles has -- or Solar Titan has released them,
5 the money comes right directly back out of their
6 account. What I've seen other accounts or Bank of
7 America -- they have multiple accounts there.

8 There's also an account -- this is from
9 another individual stating that one of the accounts had
10 a little bit over 26 to \$28 million in it. That is the
11 account where a lot of the checks are deposited at. A
12 lot of the checks are probably off record. It's
13 probably no -- I don't know what -- but no taxes, no
14 nothing off of them. That is -- it's worth looking
15 into. That's -- just like I said, it's where a lot of
16 checks are deposited.

17 Q. Is it your understanding that Solar
18 Titan's spending -- once Solar Mosaic sends in that
19 one-third of the loan, that Solar Titan is spending
20 that money before they're technically allowed to or
21 they're spending it on something other than the
22 costs to procure the equipment and install the
23 equipment?

24 A. I just know last year we done as a
25 company \$200 million in sales. Out of that

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1 \$200 million about \$60 million of it was profit.
2 And they have bought stuff right and left. They
3 bought a home, two boats in Florida. One boat was
4 like a \$2 million boat. They own a yacht company --
5 not a yacht company but a charter company. Jet
6 Skis. They own a home in Knoxville, \$8 million.
7 They buy property for their family.

8 It -- when you have that much money and you
9 can't pay your employees, there's a problem. And I
10 don't know if it's versus they -- it's a problem they
11 don't want to pay their employees. Literally in the
12 contract I handed you earlier under the non-disclose,
13 if an employee quits, they keep the funding. They keep
14 all the moneys due to you. So literally I'm walking
15 away without about \$70,000 in my bank account. My
16 attorney is going to take care of that, hopefully.

17 Q. We'll talk about all of that once we --
18 I think it might be a good idea with taking a break
19 for lunch and then coming back at 1:00. Can I ask
20 one quick question before we break. We talked about
21 the tax credit promotion. Were there any other
22 promotions that you discussed with customers in
23 order to try to close the sale?

24 A. In-house they had what's called a --
25 they would give the customer -- I can't remember the

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1 actual amount, but the company would write them a
2 check for \$3,500 and they would tell the customer it
3 is part of the FEMA that they're giving back to the
4 customer or it's a part of the -- part of the
5 president's solar bill. It all was a BS. You had
6 to call a TO to get that, a take-over. And they
7 would tell the customer that it's part of FEMA
8 funding that they have from back FEMA and stuff like
9 that. And they would give the customer \$2,500. All
10 it was was a check when the customer was completely
11 installed, permits in place, producing their own
12 power, they would come back at the end and write
13 them a check for, like, \$2,500, and the customer
14 would take it and cash it.

15 Q. So basically a rebate?

16 A. Yes, in a rebate.

17 Q. This is something that you would talk to
18 customers about during the sales pitch?

19 A. Some but normally that was a -- probably
20 twice. I'm not a fan of using the word "FEMA."
21 Because FEMA is a great -- it's a great company.
22 It's a great thing put in place. I don't think you
23 should abuse something. I would call it TO, which
24 my TO was Craig Kelley. I would call him and he
25 would make up this story where the money came from.

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1 MS. DANIELS-HILL: During the sales
2 pitch?

3 THE WITNESS: At the end if I was
4 going to close the sale. So if the customer was on the
5 edge and wanted an additional incentive, they would --
6 we would say, "Well, I might have this one other
7 thing." And we would call a TO, and the TO would come
8 in and offer the additional \$3,500 to push the customer
9 over.

10 BY MR. KEEN:

11 Q. And that was a check that was sent to
12 them once glass was on the roof?

13 A. Once the system was completely finished
14 what was supposed to be done -- that's permits and
15 the system is producing power. Literally they
16 probably get that check anywhere from four to six
17 months, and there have been times out of the three
18 or four times I used it that the check would bounce.
19 Then I would get a call about the check bouncing or
20 they never did receive the check.

21 Q. So if the company would write a rebate
22 check --

23 A. Uh-huh.

24 Q. -- they would say that this is money
25 that they got from FEMA?

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1 A. FEMA or some kind of government program.

2 Q. And your understanding is it was not

3 true?

4 A. That was BS.

5 Q. But then even though they say this is
6 money that they got from a government program, they
7 would still write the check, send it to the
8 customer, and the check would bounce?

9 A. That has happened one time that I'm
10 aware of.

11 Q. And then in other instances the
12 customer, who would otherwise be eligible for the
13 rebate, would not get the rebate?

14 A. That's correct. And I'm going to look
15 up and give you the name of the person that actually
16 the check bounced on.

17 Q. Okay.

18 A. It might take several months of going
19 back.

20 Q. If you want to try to find that
21 information out while we're on break, that's
22 perfectly fine as well.

23 A. Are you saying you don't want to wait?

24 Q. Well, I'm happy to wait. I just don't
25 want to make you look through it if you're ready to

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